

April Barker

From: Walker, Leita <WalkerL@ballardspahr.com>
Sent: Thursday, September 16, 2021 3:57 PM
To: April Barker
Cc: Kevin Vick; Friedman, James
Subject: FW: Email to April

Hi, April, Thanks for chatting earlier today and for setting up the call. To recap, here's what we discussed and where I think things stand.

ESI Protocol: We believe it behooves all parties to have some ground rules on how documents will be produced and that's really all the protocol aims to accomplish. We understand you'll discuss with George whether you have issues with certain provisions and we are happy to meet and confer regarding those provisions.

Netflix document production: We began working with Netflix to collect documents potentially relevant to this litigation soon after the Court denied the pending motions to dismiss, even though there were no discovery requests pending at the time other than for raw footage, which we had already told you Netflix does not possess. Your Third Requests for Production of Documents were not received in our office until June 24 and we timely provided written responses to them. Meanwhile, we have worked diligently to collect documents potentially responsive to your third set of requests and to review them. As I said on the phone, our drafting of an ESI protocol happened in parallel and has not delayed our document collection/review efforts. The effort, however, is not an insignificant one: the producers first began speaking with Netflix in 2013, the documentary was not released until late 2015, your client did not sue until late 2018, and it is now late 2021. So, as you can imagine, collecting documents, developing and testing search terms to reduce the collection to a manageable review set, and then reviewing the documents has taken and will continue to take some time. That said, I expect to produce a small set of documents, primarily licensing agreements, within the next couple of days, and I expect to produce remaining documents that are responsive to the pending requests on a rolling basis with the goal of having everything to you by mid-October. I do not anticipate that debate over the terms of the ESI Protocol will materially delay our production of documents, but we should reach agreement on the protocol sooner rather than later so that we are all operating from the same playbook when it comes to production. That is only fair.

Netflix's discovery requests to you: Netflix served discovery requests on your client on September 3 and the federal rules require written responses to those requests within 30 days. Of course, every party to this case has the obligation and the opportunity to amend their discovery responses throughout the course of this litigation. As I said on the phone, if you need more time to provide written responses, please let us know. I understand we all have other obligations and throughout this case all the attorneys have been willing to extend the professional courtesy of more time to one another. I don't see that changing. With regarding to Mr. Colborn's production of documents, we obviously understand, given our own experience, that this takes time. We simply ask that you work diligently to collect and review documents, that you make meaningful progress toward production, and that you keep us apprised of your progress. This is exactly what Netflix has done, and we expect the same in return.

If you have a different understanding of where things stand after our call, please let me know.

Leita

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